

# Utah Tax Review Commission

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Friday, May 1, 2009  
1:00 p.m.  
Room 445 • State Capitol

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*For further information, please contact Bryant Howe at 538-1032*  
Prepared by the Office of Legislative Research and General Counsel



# UTAH TAX REVIEW COMMISSION

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## NOTICE OF MEETING

### Utah Tax Review Commission

The TRC chairs have scheduled the following meeting:

DATE: **Friday, May 1, 2009**  
TIME: **1:00 p.m.**  
PLACE: **Room 445, State Capitol**

If commission members would like to be excused from the meeting, they may call Bryant Howe or Phalin Flowers at 538-1032.

### TRC MEMBERS

Mr. M. Keith Prescott, Chair  
Mr. David Crapo, Vice Chair

Sen. Brent H. Goodfellow  
Sen. Lyle W. Hillyard  
Sen. Wayne L. Niederhauser  
Rep. John Dougall  
Rep. Christine A. Johnson

Rep. Todd E. Kiser  
Mr. Larry Barusch  
Mr. Mark K. Buchi  
Mr. Gary Cornia  
Ms. Janis A. Dubno

Ms. Kathleen Howell  
Comm. Bruce Johnson  
Mr. Bruce Jones  
Mr. Dixie Leavitt

### STAFF

Phillip V. Dean  
Policy Analyst

Leif G. Elder  
Research Analyst

Bryant R. Howe  
Assistant Director

Angela D. Oakes  
Associate General Counsel

Rebecca L. Rockwell  
Associate General Counsel

Phalin L. Flowers  
Legislative Secretary

In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for these meetings should call Nancy McPherson at 801-538-1032 or TTY 326-1634, giving her at least three working days notice.



# **AGENDA**

## **UTAH TAX REVIEW COMMISSION**

UTAH LEGISLATURE

Friday, May 1, 2009 • 1:00 p.m. • Room 445 State Capitol

- 1. TRC Business**
  - Call to Order
  - Approval of minutes of January 15, 2009 and February 18, 2009 meetings
  - Update on Severance Tax Collections and Deposits into the Permanent State Trust Fund
- 2. Review of Tax Related Legislation Enacted During the 2009 General Session**
- 3. Review of Study Items for the 2009 Interim**
  - Sales and Use Tax Study Required Under Section 59-12-104.5
  - Follow Up on September 2008 Request from Governor Huntsman
  - Request from Chairs of Revenue and Taxation Interim Committee
  - Definition of Business Income
  - Foreign Sales Corporation
  - Clarifying Definition of Residency Under the State Individual Income Tax
  - Other Study Items
- 4. Overview of Cigarette and Tobacco Products Excise Taxes**
  - Overview of Tax Structure, Use of Revenue, and Rate, Base, and Revenue Trends - Phil Dean, Policy Analyst
  - Invited Public Comment
  - TRC Discussion and Direction for Future Action
- 5. Other Items / Adjourn**
  - 2009 Meeting Schedule



**MINUTES OF THE  
UTAH TAX REVIEW COMMISSION**

Thursday, January 15, 2009 – 9:00 a.m. – Room 445 State Capitol

**Members Present:**

Mr. M. Keith Prescott, Chair  
Mr. David Crapo, Vice Chair  
Mr. Larry Barusch  
Mr. Mark K. Buchi  
Ms. Janis A. Dubno  
Sen. Brent Goodfellow  
Rep. Wayne Harper  
Sen. Lyle W. Hillyard  
Ms. Kathleen Howell  
Comm. Bruce Johnson  
Mr. Bruce Jones  
Rep. Todd E. Kiser  
Mr. Dixie Leavitt  
Sen. Wayne L. Niederhauser

**Members Absent:**

Dr. Gary Cornia

**Staff Present:**

Mr. Phillip V. Dean, Policy Analyst  
Mr. Leif G. Elder, Policy Analyst  
Mr. Bryant R. Howe, Assistant Director  
Ms. Angela D. Oakes, Associate General Counsel  
Ms. Rebecca L. Rockwell, Associate General Counsel  
Ms. Phalin L. Flowers, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. TRC Business**

Chair Prescott called the meeting to order at 9:07 a.m. He excused Dr. Cornia from the meeting and welcomed Rep. Todd E. Kiser as a new member of the TRC.

**MOTION:** Mr. Jones moved to approve the minutes of the December 18, 2008 meeting. The motion passed unanimously with Mr. Crapo, Rep. Harper, and Sen. Niederhauser absent for the vote.

**2. Tax Commission Administration, Collection, and Enforcement Amendments**

Ms. Rockwell presented to the TRC an update on the working group that was asked to study this issue. She discussed 2009 General Session draft legislation, "Tax Commission Administration, Collection, and Enforcement Amendments," which was included in the mailing packet. She explained that the purpose of the draft legislation is to establish uniform enforcement and collection procedures for all taxes, fees, and charges administered by the Utah State Tax Commission (Tax Commission).

Ms. Rockwell said that the draft legislation addresses general powers of the Tax Commission, uniform requirements for the Tax Commission and taxpayers, notice to taxpayers, requirements for taxpayers to keep books and records, notices of delinquency to taxpayers, estimating a tax, fee, or charge, mathematical errors, assessments, recomputation of amounts due, actions for collection, claims for refunds, notice to third parties, delinquency payments, and liens.

Mr. Buchi asked if the draft legislation coordinates with the authority for a taxpayer to have an action adjudicated by the tax court. Comm. Johnson said that the draft legislation did not change current laws in relation to filing in district court. Mr. Leavitt asked if taxpayers who live outside of Salt Lake County would be inconvenienced if court actions were filed in Salt Lake County.

Comm. Johnson said that the draft legislation ensures consistent treatment of taxpayers by the Tax Commission across all tax types. He said that there is no provision in the draft legislation that makes it more difficult for a taxpayer to resolve a tax dispute.

Mr. Dee Talbot, Taxpayer Services, Tax Commission, discussed details of the draft legislation and explained that the goal of the draft legislation is to ensure consistency and simplicity for taxpayers and the Tax Commission.

Mr. Curtis Trader, member of the working group and practicing CPA, said the draft legislation was created to simplify tax payment and collection by practitioners and the Tax Commission. He spoke in support of the draft legislation from a practitioner's point of view.

Mr. Richard Van Komen, practicing CPA, voiced concerns that there are no provisions in the draft legislation that require the Tax Commission to issue refunds in a timely manner. Comm. Johnson responded that because required documentation for a tax refund is not always complete, there are often disputes with taxpayers. He said that some of the disputes require considerable time to resolve.

**MOTION:** Sen. Niederhauser moved to adopt 2009 General Session draft legislation, "Tax Commission Administration, Collection, and Enforcement Amendments," as a committee bill.

**SUBSTITUTE MOTION:** Mr. Buchi moved to adopt 2009 General Session draft legislation, "Tax Commission Administration, Collection, and Enforcement Amendments," as a committee bill and to direct staff to amend the bill to ensure that the bill does not impede a taxpayer's ability to have an action adjudicated by the tax court. The motion passed with Rep. Kiser voting in opposition and Mr. Crapo, Mr. Barusch, and Sen. Hillyard absent for the vote.

Rep. Harper asked that the draft legislation be distributed to the practitioner community for further review and comment.

### **3. Sales and Use Tax Working Group**

Mr. Buchi distributed and discussed "Report of the Sales and Use Tax Working Group." He said that the working group report is only a beginning and that additional work is needed to develop a sales and use tax system that reflects the working group's principles of taxing all final consumption and not taxing business inputs.

Chair Prescott distributed and discussed "Why might consumption expenditures fade?"

Mr. Crapo asked if a future study would also consider alternatives to the sales and use tax.

Ms. Becky Schreyer, representing the Utah Association of Certified Public Accountants (UACPA), said that if the TRC moves forward with a sales and use tax study, UACPA will conduct its own study. She noted that UACPA does not support a sales and use tax on services.

Mr. David Stringfellow, Governor's Office of Planning and Budget, explained that the governor supports the possibility of expanding the sales and use tax base by taxing services.

Mr. Bryan Larson, President, Utah Association for Justice, spoke in opposition to the taxation of services.

Mr. Royce Van Tassell, Vice President, Utah Taxpayers Association, voiced support for conducting a study of Utah's sales and use tax system.

Mr. Nathan Alder, President, Utah State Bar, said the Utah State Bar would like to participate in the TRC's study. He voiced concerns regarding the taxation of services. He said that many young legal practitioners are in solo practices that are only marginally profitable. He said that the imposition of a sales and use tax on legal services would impede the viability of many small firms. He also questioned the constitutionality of imposing a tax on a constitutionally protected right such as filing for bankruptcy and accessing the courts.

Mr. Roger Tew, Utah League of Cities and Towns, said that whether to "fix" or "throw out" the sales and use tax is a fair question. He said that the current sales and use tax system is seriously disconnected from the modern economy. He said that the TRC should not let political concerns, which will likely prevent the adoption of a perfect system, prevent consideration of marginal, yet important, improvements.

Ms. Allison Rowland, Voices for Utah Children, said the sales and use tax is a regressive tax. She noted that low-income individuals tend to spend more on sales and use taxes than high-income individuals because low-income individuals usually spend most of their income with very little savings.

Mr. Van Komen spoke in opposition to the taxation of services.

Chair Prescott said that the TRC welcomes comments from the various professions and organizations who have an interest in this issue. He encouraged all stakeholder groups, as they take positions, to consider the broader public policy objectives of what is in the best interest of the state.

**MOTION:** Mr. Buchi moved that:

- Because the Utah sales and use tax system needs to be modernized and aligned with the current economy, the TRC recommends that a comprehensive study be undertaken of the state's sales and use tax system.
- In conducting this study, the TRC recommends that:
  - (1) the following principles be followed:
    - a. tax final consumption;
    - b. don't tax business inputs;
    - c. don't tax investment and savings;
    - d. consider taxpayer and administrative simplicity; and
    - e. recognize evolving interstate, international, and electronic commerce; and
  - (2) the following issues, among others, be addressed:
    - a. Should a sales tax be imposed on health care services and if so should it be imposed at the point of sale or on health care insurance premiums?
    - b. What should the sales and use tax treatment be of sales of new and used motor vehicles required to be registered with the state?
    - c. How should initial purchases by households of improvements to land be treated?
- The TRC commends the report of its sales and use tax working group for further review and consideration.

**SUBSTITUTE MOTION:** Mr. Crapo moved that:

- Because the Utah sales and use tax system was designed for a different economy, and there has been significant erosion in the sales and use tax base, the TRC recommends that a comprehensive study be undertaken of the state's sales and use tax system to determine whether it should be modernized and more closely aligned with the current economy.
- In conducting this study, the TRC recommends that:



- (1) the following principles be followed:
  - a. tax final consumption;
  - b. don't tax business inputs;
  - c. don't tax investment and savings;
  - d. consider taxpayer and administrative simplicity; and
  - e. recognize evolving interstate, international, and electronic commerce; and
- (2) the following issues, among others, be addressed:
  - a. Should a sales tax be imposed on health care services and if so should it be imposed at the point of sale or on health care insurance premiums?
  - b. What should the sales and use tax treatment be of sales of new and used motor vehicles required to be registered with the state?
  - c. How should initial purchases by households of improvements to land be treated?
  - d. What should the sales and use tax treatment be of sales of food?
  - e. What are the incidence and distributional effects?
  - f. What are the effects on consumption and investment?
- The TRC commends the report of its sales and use tax working group for further review and consideration.

The substitute motion passed unanimously with Mr. Barusch, Rep. Harper, Sen. Hillyard, and Mr. Jones absent for the vote.

#### **4. Deduction for Foreign Operating Company**

Mr. Howe distributed and discussed "Excerpt from minutes of October 9, 2008 TRC meeting," "Sec. 2. Minnesota Statutes 2006, section 290.01, subdivision 6b," and "A Report of the Corporate Tax Task Force to the Tax Review Commission."

Chair Prescott said that this agenda item would be considered at a future meeting.

Comm. Johnson said that the Tax Commission has no concerns with bona fide foreign operating companies and does not want to recommend that the TRC act precipitously without first receiving testimony from affected taxpayers. Mr. Prescott suggested that practitioners with clients who claim the foreign operating company deduction be contacted and asked to provide testimony on this issue at a future meeting.

#### **5. Other Items / Adjourn**

**MOTION:** Rep. Harper moved to adjourn the meeting. The motion passed unanimously with Mr. Barusch, Sen. Hillyard, and Mr. Jones absent for the vote.

Chair Prescott adjourned the meeting at 11:57 a.m.

**MINUTES OF THE  
UTAH TAX REVIEW COMMISSION**

Wednesday, February 18, 2009 – 12:00 p.m. – Room 445 State Capitol

**Members Present:**

Mr. M. Keith Prescott, Chair  
Mr. Mark K. Buchi  
Dr. Gary Cornia  
Rep. John Dougall  
Ms. Janis A. Dubno  
Sen. Brent Goodfellow  
Comm. Bruce Johnson  
Rep. Christine A. Johnson  
Rep. Todd E. Kiser  
Sen. Wayne L. Niederhauser

**Members Absent:**

Mr. David Crapo, Vice Chair  
Mr. Larry Barusch  
Sen. Lyle W. Hillyard  
Ms. Kathleen Howell  
Mr. Bruce Jones  
Mr. Dixie Leavitt

**Staff Present:**

Mr. Phillip V. Dean, Policy Analyst  
Mr. Leif G. Elder, Policy Analyst  
Mr. Bryant R. Howe, Assistant Director  
Ms. Angela D. Oakes, Associate General Counsel  
Ms. Rebecca L. Rockwell, Associate General Counsel  
Ms. Phalin L. Flowers, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. TRC Business**

Chair Prescott called the meeting to order at 12:15 p.m. He excused Mr. Crapo and Ms. Howell from the meeting and welcomed Rep. Christine Johnson as a new member of the TRC.

**2. Sales Taxation of Food**

Rep. Kay McIff introduced the topic. He said that the current economic downturn has led to a severe reduction in state tax revenues. He said that sales of food are taxed at a lower state sales tax rate of 1.75 percent rather than the full state sales tax rate of 4.7 percent. He said that the state faces the challenge of an unstable tax structure and that the single most stable component of Utah's sales tax structure has historically been the sales tax on food. He discussed a letter that was mailed to the TRC that lists issues related to the sales tax on food and said that he would like the TRC to study and make recommendations regarding this issue.

Mr. Dean distributed and discussed "Sales Tax on Food." He presented background information on the history of the sales tax on food in Utah and discussed the estimated impact from increasing and decreasing the taxable rate on food and food ingredients. Mr. Dean also gave an overview of the federal earned income tax credit.

Staff distributed "Restore sales tax on food to help check state revenue decline," *The Salt Lake Tribune*, and "State Sales and Use Tax Revenues 1990-2008."

Ms. Allison Rowland, Voices for Utah Children, said her organization supports implementing a state earned income tax credit. She also answered questions from the TRC about outreach to individuals who do not file income tax returns.

Rep. Dougall said that this proposal only addresses the imposition of the sales tax on food. He said that the TRC should also consider whether to impose the sales tax on all final consumption by households and to exclude from the sales tax the purchase of all business inputs.

Dr. Cornia said that removing the sales tax from business inputs and taxing all final consumption is good tax policy and good economic development policy. He said that a tax on exports is bad tax policy and that the TRC should support efforts to improve the competitiveness of the goods and services produced in Utah. He said that tax policy must recognize that Utah businesses compete in a global economy.

Rep. Kiser asked how a sales tax on business purchases could be considered as an export tax. Dr. Cornia replied that the cost of the tax is imbedded in the purchase price of a good or service produced in Utah.

Ms. Dubno said that equity considerations are also important. She said that there are many ways to promote a broad tax base and that tax relief on food promotes tax equity. She said, however, that the wholesale exemption of food is not targeted to those taxpayers who most need tax relief and that it may also compromise revenue stability.

Rep. Dougall said that providing the sales tax exemption for food at the point of sale is the most efficient way to provide direct tax relief to all citizens. He said that under other tax relief proposals, a taxpayer must file a tax return and wait for a refund.

Mr. Buchi wondered what percent of eligible taxpayers claim the federal earned income tax credit. He said that he assumes that many eligible taxpayers do not file a tax return.

Ms. Dubno said that another way to provide targeted tax relief would be to make the current taxpayer tax credit a refundable tax credit.

Rep. McIff said that the broader sales tax policy discussions are important and should proceed. He said that his proposal, however, is very narrow. He said that one concern is that lower tax revenues have necessitated cuts in important health and human services and other state programs. Rep. McIff noted that it is administratively simple to link the proposed tax credit to the federal earned income tax credit.

Dr. Cornia said that the evidence is clear that most states increase their sales tax rates after sales of food is removed from the base.

Rep. Dougall said that stability is important for both the sales tax and the individual income tax. He said that the state individual income tax would be more stable but for the taxpayer tax credit.

Chair Prescott asked the members of the TRC how they wish to proceed with this issue.

Rep. Johnson said that she is concerned about replacing the sales tax exemption with an income tax credit because many taxpayers do not file individual income tax returns.

Rep. Dougall and Ms. Dubno said that publicity efforts and outreach to eligible taxpayers are important.

Rep. McIff said that he wants a system that is simple to administer. He said that individual responsibility to file a return to receive the tax credit is also important.

Sen. Niederhauser said that while he appreciates Rep. McIff's proposal, it should move forward in the context of overall sales and use tax reform.

**MOTION:** Sen. Niederhauser moved to include a discussion of sales tax on food in the study of broadening the sales and use tax base.

**SUBSTITUTE MOTION:** Rep. Dougall moved to adopt the position that the TRC believes good sales tax policy consists of taxing final consumption while excluding business inputs. The substitute motion passed with Rep. Johnson voting in opposition.

**MOTION:** Mr. Buchi moved to direct the sales tax working group to add the taxation of food to the studies planned for this year and add a study mechanism on how to deliver sales tax relief to low income individuals in the most effective and complete manner.

**SUBSTITUTE MOTION:** Ms. Dubno moved that if the TRC recommends to increase the sales tax on food, the increase will be done in conjunction with a refundable tax credit targeted to the economically disadvantaged.

Sen. Niederhauser spoke in opposition to the substitute motion.

The substitute motion passed with Mr. Buchi, Rep. Dougall, Rep. Kiser, and Sen. Niederhauser voting in opposition and Mr. Cornia absent for the vote.

### **3. Other Items / Adjourn**

**MOTION:** Sen. Niederhauser moved to adjourn the meeting. The motion passed unanimously with Mr. Cornia absent for the vote.

Chair Prescott adjourned the meeting at 2:01 p.m.



# **Tax Bills Passed During the 2009 General Session**

## **Income Taxes**

### ***H.B. 20      Repeal of Certain Income Tax Credits and Contributions (Rep. Julie Fisher)***

This bill amends the Individual Income Tax Act and related provisions to repeal certain income tax credits and contributions.

This bill:

- ▶ repeals the income tax targeted jobs tax credit for individuals, estates, and trusts;
- ▶ repeals the individual income tax contributions for:
  - the Utah College of Applied Technology; and
  - the Wolf Depredation and Management Restricted Account;
- ▶ provides that contributions and interest remaining on June 30, 2009 in the Wolf Depredation and Management Restricted Account shall be deposited into the Agricultural and Wildlife Damage Prevention Account;
- ▶ modifies the sources of funding for the Agricultural Wildlife Damage Prevention Account to include contributions and interest remaining on June 30, 2009 in the Wolf Depredation and Management Restricted Account;
- ▶ provides repeal dates for provisions relating to:
  - the Wolf Depredation and Management Restricted Account; and
  - contributions and interest remaining on June 30, 2009 in the Wolf Depredation and Management Restricted Account that are deposited into the Agricultural and Wildlife Damage Prevention Account; and
- ▶ makes technical changes.

### ***H.B. 71      Withholding Tax Amendments (Rep. E. Vickers)***

This bill modifies the Withholding of Tax part to address withholding prepayments.

This bill:

- ▶ modifies withholding requirements to address:
  - withholding prepayments and accompanying forms; and
  - penalties and interest; and
- ▶ makes technical changes.

### ***S.B. 23      Income Taxation of Pass-through Entities and Pass-through Entity Taxpayers (Sen. W. Niederhauser)***

This bill amends the Corporate Franchise and Income Taxes chapter and the Individual Income Tax Act to address the income taxation of a pass-through entity and a taxpayer to whom income, gain, loss, deduction, or credit of the pass-through entity is passed through.

This bill:

- ▶ provides that corporate franchise and income taxes are imposed on an S corporation through the taxable year beginning on or after January 1, 2012, but beginning on or before December 31, 2012;
- ▶ requires the Revenue and Taxation Interim Committee to conduct a study and prescribes

- the scope of the study;
- ▶ repeals provisions governing the taxation of a limited liability company;
- ▶ addresses the income taxation of a taxpayer to whom income, gain, loss, deduction, or credit of a pass-through entity is passed through;
- ▶ expands withholding requirements to provide that a pass-through entity, including a general partnership, limited partnership, limited liability partnership, limited liability company, or an S corporation, is required to pay or withhold a tax on behalf of a resident or nonresident business entity or a nonresident individual;
- ▶ provides exceptions to the withholding requirements;
- ▶ provides withholding procedures;
- ▶ addresses return filing requirements for a pass-through entity or a taxpayer to whom income, gain, loss, deduction, or credit of a pass-through entity is passed through;
- ▶ addresses the characterization of items of income, gain, loss, deduction, or credit for purposes of state income taxation of a taxpayer to whom income, gain, loss, deduction, or credit of a pass-through entity is passed through;
- ▶ addresses the determination of a taxpayer's share of certain additions to income, deductions from income, or adjustments to income required by state statute;
- ▶ addresses a refundable tax credit for a taxpayer to whom income, gain, loss, deduction, or credit of a pass-through entity is passed through; and
- ▶ makes technical changes.

## **Property Taxes**

### ***H.B. 23      Certified Tax Rate Amendments (Rep. F. Hunsaker)***

This bill amends provisions in the Property Tax Act relating to the calculation of a taxing entity's certified tax rate.

This bill:

- ▶ includes the revenue a taxing entity collects from redemptions as "ad valorem property tax revenues" for purposes of calculating the taxing entity's certified tax rate;
- ▶ requires a taxing entity's ad valorem property tax revenues budgeted for the prior year to be decreased by the average annual amount of revenue collected from redemptions during the prior five-year period for purposes of calculating a taxing entity's certified tax rate;
- ▶ exempts a taxing entity from the notice and hearing requirements of "Truth in Taxation" for a certain amount of budgeted revenue equal to the taxing entity's five-year average of redemptions from collections;
- ▶ defines terms; and
- ▶ makes technical changes.

### ***H.B. 28      Personal Property Tax Amendments (Rep. C. Frank)***

This bill amends provisions in the Property Tax Act relating to the collection of personal property taxes.

This bill:

- ▶ provides that a county assessor may impose a penalty if a taxpayer fails to file a property tax statement on or before May 15 of the year the property tax statement is requested by the county assessor;

- ▶ requires a county assessor of a county of the first class to mail a subsequent notice to the taxpayer before imposing a penalty for failure to file a property tax statement;
- ▶ requires a county assessor to mail a subsequent notice to a taxpayer before imposing a penalty for failure to file a property tax statement if the county assessor requested the property tax statement on or after March 16 of the year the property tax statement is requested by the county assessor;
- ▶ requires a county assessor to make an estimate of the value of property based on known facts and circumstances if a taxpayer fails to file a signed statement of the taxpayer's property; and
- ▶ makes technical changes.

**H.B. 67      *Public Hearings on Property Tax Increases* (Rep. G. Froerer)**

This bill modifies the Property Tax Act to address certain requirements for a taxing entity to provide notice of public hearings.

This bill:

- ▶ amends the format of the "Truth in Taxation" newspaper advertisement;
- ▶ excludes new growth from the taxing entity's budgeted revenue amounts for purposes of determining the taxing entity's percentage increase listed in a "Truth in Taxation" newspaper advertisement;
- ▶ modifies the advertisement requirements for a taxing entity when the taxing entity's public hearing is advertised by the county auditor;
- ▶ requires certain taxing entities to notify a county auditor of public hearings related to tax increases;
- ▶ requires the county auditor to compile the notices of public hearings;
- ▶ requires publication of the compiled information;
- ▶ requires certain taxing entities to provide information to taxpayers;
- ▶ provides for the payment of costs;
- ▶ addresses the scope of the provision; and
- ▶ makes technical changes.

**H.B. 116      *Uniform Fees on Canoes* (Rep. M. Wheatley)**

This bill amends provisions in the Property Tax Act relating to the annual uniform fees on canoes.

This bill:

- ▶ amends the definition of "canoe" to include a canoe with an outboard motor; and
- ▶ makes technical changes.

**H.B. 157      *Property Tax Assessment Amendments* (Rep. W. Harper)**

This bill amends the appraiser licensing requirements for certain county assessors and provisions in the Property Tax Act relating to the Multicounty Assessing and Collecting Levy.

This bill:

- ▶ amends the licensing requirements for first, second, and third class county assessors to require those county assessors to be state licensed or state certified appraisers prior to taking office as a county assessor;
- ▶ requires second through sixth class counties to levy an additional .000010 per dollar of



- ▶ taxable value for its Multicounty Assessing and Collecting Levy;
- ▶ requires certain revenue from the Property Tax Valuation Agency Fund to be disbursed to the Multicounty Appraisal Trust;
- ▶ decreases the county additional property tax for certain second and third class counties;
- ▶ provides a method to determine the amount of revenue to be transferred from the Property Tax Valuation Agency Fund to the Multicounty Appraisal Trust;
- ▶ provides that the Multicounty Appraisal Trust oversee the distributions of revenue received from the Property Tax Valuation Agency Fund;
- ▶ defines terms; and
- ▶ makes technical changes.

**H.B. 378      *Circuit Breaker Amendments (Rep. T. Cosgrove)***

This bill amends the Property Tax Act to amend the household income qualifying limits of some claimants applying for certain property tax relief programs.

This bill:

- ▶ for taxable year 2009, decreases a claimant's household income by \$1,000 for a dependent that the claimant is eligible to claim on the claimant's federal taxes for purposes of qualifying for a homeowner's credit for a maximum household income decrease of \$1,000;
- ▶ for taxable year 2009, decreases a claimant's household income by \$1,000 for a dependent that the claimant is eligible to claim on the claimant's federal taxes for purposes of qualifying for a renter's credit for a maximum household income decrease of \$1,000; and
- ▶ makes technical changes.

**S.B. 65      *Amendments to Property Tax Notice, Public Hearing, and Resolution Provisions (Sen. D. Stowell)***

This bill amends the Property Tax Act to address property tax notice, public hearing, and resolution requirements.

This bill:

- ▶ defines terms;
- ▶ modifies property tax notice, public hearing, and resolution requirements if a taxing entity seeks to levy a tax rate that exceeds the certified tax rate;
- ▶ addresses exceptions to the property tax notice or public hearing requirements; and
- ▶ makes technical changes.

**S.B. 157      *Property Taxation and Registration of Aircraft (Sen. M. Madsen)***

This bill amends provisions in the Property Tax Act and the Uniform Aeronautical Regulatory Act related to the taxation and registration of certain charter aircraft.

This bill:

- ▶ provides that, for purposes of property taxation of an air charter service, operating property does not include an aircraft that is used by the air charter service for air charter and is owned by a person other than the air charter service;
- ▶ reduces the registration fee for an aircraft used by an air charter service for air charter from .4% to .25% of the average wholesale value of the aircraft; and
- ▶ makes technical changes.

**S.B. 210**      ***Amendments to Property Tax (Sen. C. Bramble)***

This bill amends provisions in the Property Tax Act related to the fair market value assessment of aircraft.

This bill:

- ▶ provides a method for determining the fair market value of centrally assessed aircraft; and
- ▶ makes technical changes.

## **Sales and Use Taxes**

**H.B. 58**      ***Sales and Use Tax - Determining the Location of Certain Transactions (Rep. W. Harper)***

This bill amends the Sales and Use Tax Act relating to determining the location of certain transactions.

This bill:

- ▶ addresses the sale, lease, or rental of a service under provisions for determining the location of certain transactions if the receipt of an order and the receipt of tangible personal property or a product transferred electronically take place within the state; and
- ▶ makes technical changes.

**H.B. 65**      ***Reporting of Certain Transactions Exempt from Sales and Use Taxes (Rep. Julie Fisher)***

This bill amends the Penalties, Interest, and Confidentiality of Information part and the Sales and Use Tax Act relating to reporting requirements for certain transactions exempt from sales and use taxes.

This bill:

- ▶ repeals the requirement for an owner or purchaser to report transactions exempt from state and local sales and use taxes with respect to:
  - exemptions for certain machinery, equipment, or parts; and
  - the exemption relating to semiconductors;
- ▶ repeals penalty provisions relating to the transaction reporting requirements that are repealed;
- ▶ repeals the requirement that the State Tax Commission provide to the Legislature the total amount of sales or uses:
  - exempt under the exemption relating to semiconductors; and
  - reported to the commission in accordance with the transaction reporting requirements that are repealed;
- ▶ requires the State Tax Commission to estimate the cost of the exemptions for certain machinery, equipment, or parts for purposes of reviewing the exemptions and reporting to the Revenue and Taxation Interim Committee; and
- ▶ makes technical changes.

**S.B. 35      *Sales and Use Tax Definitions Relating to Property* (Sen. W. Niederhauser)**

This bill amends the Sales and Use Tax Act relating to definitions.

This bill:

- ▶ modifies the definitions of:
  - "permanently attached to real property"; and
  - "tangible personal property"; and
- ▶ makes technical changes.

**S.B. 36      *Sales and Use Tax Amendments* (Sen. C. Bramble)**

This bill amends the Sales and Use Tax Act and related provisions.

This bill:

- ▶ addresses an exemption from certain penalties relating to sales and use taxes;
- ▶ modifies and repeals definitions;
- ▶ provides that amounts paid or charged for prepaid telephone calling cards are not subject to state and local sales and use taxes;
- ▶ repeals a sales and use tax exemption for sales of telecommunications service charged to a prepaid telephone calling card;
- ▶ provides a requirement that to be eligible for exemption from state and local sales and use taxes, certain machinery, equipment, or repair or replacement parts be used in an establishment or facility in the state;
- ▶ repeals obsolete language;
- ▶ addresses a state sales and use tax exemption for certain accommodations and services taxed by the Navajo Nation;
- ▶ addresses a refund for overpayment of a sales and use tax;
- ▶ addresses a seller's or certified service provider's reliance on State Tax Commission information;
- ▶ addresses the transactions that are taxable or exempt under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act;
- ▶ addresses the determination of the location of certain transactions;
- ▶ provides that the motor vehicle rental tax is not subject to certain provisions designating the state sales and use tax for particular purposes;
- ▶ conforms terminology in the emergency telephone service charge for 911 administered by the State Tax Commission to terminology in the Sales and Use Tax Act; and
- ▶ makes technical changes.

**S.B. 189      *Amendments to Sales and Use Tax* (Sen. W. Niederhauser)**

This bill amends the Sales and Use Tax Act and related provisions to address transactions that are subject to taxation or exempt from taxation and to address sales and use tax funding for the Qualified Emergency Food Agencies Fund.

This bill:

- ▶ modifies the sales and use tax funding sources for the Qualified Emergency Food Agencies Fund;
- ▶ repeals a defined term;
- ▶ reduces the amount of state sales and use tax to be deposited into the Qualified Emergency Food Agencies Fund;

- ▶ provides that the State Tax Commission shall calculate and retain a portion of the following taxes and deposit the amount retained into the Qualified Emergency Food Agencies Fund:
  - the tax under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and
  - the tax under Title 59, Chapter 12, Part 11, County Option Sales and Use Tax;
- ▶ modifies a sales and use tax exemption relating to a commercial airline carrier;
- ▶ provides that the tax under Title 59, Chapter 12, Part 20, Supplemental State Sales and Use Tax Act, is imposed on the same transactions as the state sales and use tax:
  - except for food and food ingredients under certain circumstances; and
  - including sales of gas, electricity, heat, coal, fuel oil, or other fuels for residential use; and
- ▶ makes technical changes.

**S.B. 235      *Redistribution of Sales and Use Tax Revenues (Sen. J. Valentine)***

This bill amends the Sales and Use Tax Act relating to the redistribution of sales and use tax revenues.

This bill:

- ▶ establishes procedures and requirements for the State Tax Commission to redistribute certain sales and use tax revenues from one county, city, or town to another county, city, or town under certain circumstances;
- ▶ allows a county, city, or town to file a petition for reconsideration with the State Tax Commission relating to a redistribution of certain sales and use tax revenues from one county, city, or town to another county, city, or town; and
- ▶ makes technical changes.

**S.B. 248      *Tax Amendments (Sen. G. Bell)***

This bill amends the Sales and Use Tax Act and related provisions to address certain local sales and use taxes relating to airports, highways, and public transportation.

This bill:

- ▶ amends the additional public transit tax to:
  - expand the uses of tax revenues;
  - create an exemption from certain election requirements; and
  - provide that if an exemption from election requirements applies a county, city, or town shall obtain approval to impose the tax from the county, city, or town legislative body;
- ▶ amends a local option sales and use tax for airports, highways, and public transit by:
  - providing and modifying definitions;
  - allowing a city or town within a county of the second class to impose the tax in addition to a county of the second class under certain circumstances;
  - modifying the purposes for which tax revenues may be expended, including providing that certain cities and towns may expend up to all of the revenues collected from the tax for certain airport facilities;
  - addressing certain notice requirements for a city or town imposing the tax; and
  - addressing procedures for the State Tax Commission to distribute tax revenues;
- ▶ addresses the expenditure of revenues deposited into the Local Transportation Corridor

- Preservation Fund if those revenues are allocated to a city or town that imposes the local option sales and use tax for airports, highways, and public transit;
- ▶ addresses the expenditure of revenues deposited into the County of the Second Class State Highway Projects Fund if those revenues are deposited for or allocated to a city or town that imposes the local option sales and use tax for airports, highways, and public transit; and
- ▶ makes technical changes.

## **Other Taxes**

### ***H.B. 54      Amendments to Vehicle Registration Requirements (Rep. F. Gibson)***

This bill amends the Registration part relating to requirements prior to registration of a vehicle.

This bill:

- ▶ requires an owner to pay applicable state and local sales and use taxes prior to registration of a vehicle; and
- ▶ makes technical changes.

### ***H.B. 55      Amendments to Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act (Rep. W. Harper)***

This bill amends the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act to address the taxation of sales by a restaurant.

This bill:

- ▶ provides that sales of alcoholic beverages sold by a restaurant are subject to taxation within a county that imposes a tax on certain sales by a restaurant; and
- ▶ makes technical changes.

### ***H.B. 80      Study on Taxpayer Advocate Program (Rep. K. Grover)***

This bill requires the Revenue and Taxation Interim Committee to study the implementation of a taxpayer advocate program.

This bill:

- ▶ requires the Revenue and Taxation Interim Committee to study the implementation of a taxpayer advocate program within the Utah State Tax Commission during the 2009 interim;
- ▶ prescribes the scope of the study; and
- ▶ addresses legislation to implement a taxpayer advocate program.

### ***S.B. 108      Tax Commission Administration, Collection, and Enforcement Amendments (Sen. W. Niederhauser)***

This bill modifies provisions related to the administration, collection, and enforcement of certain taxes, fees, and charges by the State Tax Commission.

This bill:

- ▶ addresses the administration, collection, and enforcement of certain taxes, fees, and charges by the State Tax Commission;

- ▶ defines terms;
- ▶ addresses penalties and interest on a tax, fee, or charge;
- ▶ addresses the procedure for obtaining a redetermination of a deficiency;
- ▶ addresses general collection procedures by the State Tax Commission;
- ▶ addresses mailing procedures for the State Tax Commission or a person required to mail certain documents to the State Tax Commission;
- ▶ addresses record retention requirements for a person subject to a tax, fee, or charge;
- ▶ enacts provisions related to the assessment, collection, and refund of a tax, fee, or charge, including:
  - providing general collection authority;
  - providing exceptions to the provisions;
  - allowing for the State Tax Commission to make rules establishing collection procedures;
  - addressing notice requirements for the State Tax Commission;
  - providing for an objection to a notice of deficiency;
  - requiring the State Tax Commission to estimate a tax, fee, or charge, if a person fails to file a return;
  - addressing mathematical errors;
  - addressing assessments of a tax, fee, or charge;
  - providing for recomputation of amounts due;
  - addressing actions for the collection of a tax, fee, or charge;
  - addressing the time period for assessing a tax, fee, or charge;
  - addressing credits and refunds;
  - addressing notice and demand for an unpaid liability;
  - addressing notices to a third party relating to a delinquency in the payment of a liability;
  - addressing a lien related to the payment of a liability;
  - addressing a notice of a lien;
  - addressing a warrant;
  - addressing a levy for an unpaid liability;
  - addressing a transferee obligated for the payment of a liability of a person that originally owes the liability;
  - addressing burden of proof;
  - addressing statutes of limitations;
  - addressing venue; and
  - addressing miscellaneous provisions;
- ▶ addresses overpayments, credits, and refunds in relation to certain taxes;
- ▶ addresses State Tax Commission rulemaking authority;
- ▶ addresses assessments and collections in relation to income taxes;
- ▶ addresses income tax return filing requirements;
- ▶ addresses powers and duties of the State Tax Commission;
- ▶ addresses State Tax Commission collection, administration, and enforcement authority in relation to the emergency services telephone charge to fund the Utah Poison Control Center; and
- ▶ makes technical changes.

***S.B. 186      Amendments to State Tax Commission Penalty Provisions (Sen. H. Stephenson)***

This bill amends the Penalties, Interest, and Confidentiality of Information part relating to penalties imposed by the State Tax Commission.

This bill:

- ▶ defines terms;
- ▶ addresses penalties relating to a tax, fee, or charge:
  - before the activation of the State Tax Commission's GenTax system; and
  - after the activation of the State Tax Commission's GenTax system;
- ▶ addresses the due date for filing a return if the person filing the return is allowed an extension of time for filing the return;
- ▶ addresses the taxes, fees, or charges to which certain penalties apply; and
- ▶ makes technical changes.



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**THE WALL STREET JOURNAL.**

WSJ.com

APRIL 15, 2009, 1:56 P.M. ET

## Sales-Tax Revenue Falls at Fastest Pace in Years

By CONOR DOUGHERTY

State and local sales-tax revenue fell more sharply in the fourth quarter of 2008 than at any time in the past half century, and has continued to erode through the beginning of 2009, according to a report released Tuesday.

The report by the Nelson A. Rockefeller Institute of Government at the State University of New York underscores how swiftly the consumer slowdown has eaten into municipal budgets. The drop in tax revenue has forced cities and towns of all sizes to cut everything from police to summer pool hours, and has sent legislatures scrambling for federal economic-stimulus funds to help ease budget gaps.

"The sales tax has been absolutely hammered," said Don Boyd, senior fellow at the institute.

State and local sales taxes, among the largest sources of revenue for municipalities, fell 6.1% in the fourth quarter of last year, as consumers bought fewer clothes, ate out less and canceled vacations. Revenue from personal income taxes was down 1.1% in the fourth quarter; corporate income taxes dropped 15.5%, reflecting weaker profits.

The declines have continued through the beginning of this year. In the first two months of 2009, the 41 states that have reported tax revenue saw total receipts decline 12.8%, versus the same period a year ago.

States have so far been hit harder than towns and cities. Overall, states' taxes declined 4% in the final three months of 2008 versus the same period in 2007, the first decline in six years, according to the analysis of state data by the Rockefeller Institute. Local tax collections rose 3.2%, as gains in property taxes offset falling sales taxes.

While income and property taxes have generally fared better than sales taxes, those revenues are also under stress. Property taxes typically lag behind real-estate prices, because it takes municipalities a year or longer to reassess the home values on which those levies are calculated. With home prices still falling, property taxes are also set to grow more slowly or in some cases decrease.

Carnage in the stock market also is likely to substantially reduce income-tax collections. With tax day on Wednesday, this is the time of year when high-income earners start writing checks to cover capital gains and other investment-based income taxes that have accrued over the past year. "This time around, the checks will be much smaller, and some [people] may be seeking refunds," Mr. Boyd said.

Further declines in tax revenue could force legislatures -- which in many cases used heavy cuts to balance this year's budget -- to make further reductions later this year.

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TAX REPORT | APRIL 15, 2009

## What I Learned in My 16 Years on the Tax Beat

*System Is Shaky, but a Series of Changes Are on the Way; Some Funny and Sad Moments*

By TOM HERMAN



Nearly 40 years ago, as a recent college graduate, I made a painful discovery: I couldn't figure out how to do my own federal income-tax return.

That was embarrassing, and it made me wonder what other Americans do. So I wrote my first major tax story: I asked five different tax-preparation services in the Atlanta area to prepare returns for a family of four with fairly typical finances. The results: At one extreme, a tax expert said the family was entitled to a federal income-tax refund of \$652.04. But another said the family *owed* \$141 -- a difference of \$793.04.

That experience made me feel somewhat less dumb, but the article didn't have much impact: Since then, our tax system has evolved from a mess to a nightmare. The pace of change has accelerated in recent decades as lawmakers increasingly have tried to use tax laws to reward or punish conduct. The number of pages in the CCH Standard Federal Tax Reporter, which records tax law, regulations and related material, has soared to 70,320 from 26,300 in 1984.

More than 60% of all individual returns are signed by professional preparers, up from 46% in the mid-1980s. Joel Slemrod, an economics professor at the University of Michigan, estimates that the time and money individuals spend on tax compliance now comes to about \$90 billion a year.

I am subjecting you to this semi-rant because this will be my final Tax Report as a full-time staffer for The Wall Street Journal, which I joined after graduating from college in 1968. After well over 1,000 articles on the tax beat since 1993, I have decided to retire, although I probably will write occasional pieces on taxes and other personal-finance subjects. I also plan to do more teaching at the college and graduate-school levels.

I leave with enormous respect and affection for the many talented lawyers, accountants, enrolled agents, Treasury and IRS officials and others who have taken pity on me over the years, supplying me with ideas and background for this column. I leave with special respect and admiration for my colleagues at this great newspaper, the only place I've worked since college. And I leave with high regard for our readers, whose questions and comments have helped and inspired me. As my friend and former colleague Glynn Mapes once said, it's not what you do. It's who you do it with. On that score, I have truly been blessed.

But I also leave with a growing sense that our tax system is in shaky condition and needs a major overhaul. We need a system that is much simpler and less burdensome. That won't happen with mere tinkering around the edges. Many people who have held top jobs at the IRS and Treasury agree. Our federal tax system is "so shot through with deductions, credits, exclusions, loopholes and outright noncompliance that it fails in its essential job of raising

revenues efficiently," says Charles Rossotti, a former IRS Commissioner. "The complexity and instability of the tax system also leads people to believe that the average person always gets stuck, while the big hitters find ways to avoid paying, regardless of the advertised tax rates."

As Will Rogers once observed about tax forms: "Even when you make one out on the level, you don't know when it's through if you are a crook or a martyr."

Here are a few thoughts about what may lie ahead:

**IRS crackdowns:** President Barack Obama is asking Congress to give the IRS more money, especially for "enforcement." The message: Prepare for more audits, especially if you make \$100,000 or more. Increasing the IRS audit rate is comparable to putting more police cars on the highways. When you see more patrol cars, you're more likely to stay within the speed limit. Also, it makes more sense to squeeze more money out of people who really owe it, instead of raising taxes on the vast majority of compliant taxpayers.

But there is a dark side: Many routine audits result in little or no change in the amount of tax owed. That means many taxpayers have to spend large amounts of time -- and money -- defending themselves when they already have paid what they owe.

IRS officials also are stepping up long-running efforts to nab more Americans hiding taxable income in secret foreign bank accounts. This initiative comes at a time when increasing numbers of legendary tax havens, including Switzerland, have pledged greater cooperation in combating tax cheating.

**Tax shelters:** IRS officials vow to continue their crackdown on shelters, or transactions they say have no real purpose other than to dodge taxes. Also, Congress might enact legislation that backers hope will help clarify the "economic substance" doctrine, long used by courts to disallow benefits from transactions that judges say have no substance or purpose other than tax avoidance. This is dangerous territory. Some lawyers think legislative proposals along these lines are so vague that they could torpedo legitimate business transactions. They say judges have done just fine deciding shelter cases without such a law.

**Death and taxes:** Congress will make major changes in the federal estate tax this year. If they take no action, the tax will disappear entirely next year, only to spring back to life in 2011. For 2009, the basic estate-tax exemption is \$3.5 million, and the top rate is 45%. (However, one spouse typically can leave everything to the other spouse, tax-free.) Don't count on the estate tax disappearing next year. Instead, look for Congress to extend this year's rules, or something very close, into future years and make a few other tweaks.

**New system?** At some point, lawmakers will make a serious effort to overhaul the tax system. But don't expect that to happen anytime soon. Why? The pithiest explanation comes from Pam Olson, a Washington tax lawyer. As a Treasury official in 2002, Ms. Olson wrote a memo underscoring the need for a major tax overhaul. But in a section entitled "political risks," she warned: "Any reform is likely to have vocal losers and largely silent winners."

A few parting notes:

\* \* \*

**Strangest request:** A reader who called himself a "senior, senior citizen" wrote several years ago to say he had amassed \$2.1 million of stock-market losses.

"In order to use (and not lose them), I would have to marry a woman with large capital gains," he wrote. He said his accountant told him "it is not necessary to live together, and a divorce can be had after the tax loss is used up." If he filed a joint return, "her tax savings would be split between us. Needless to say, she can be properly protected by a prenuptial agreement. Your advice on how I might find such a lady would be greatly appreciated."

He added: "And should a fee or reward not be paid (and how much) to a person finding her?"

\* \* \*

**Worst day:** Sept. 11, 2001. I was in my office at 200 Liberty Street, next door to where the twin towers stood, when the terrorists struck.

I dashed across the street to our home and told my wife, Marilyn, we had to leave the area immediately. As the first tower collapsed, we ran up the West Side highway, hand in hand, to escape the debris storm, and walked several miles to the Marriott Marquis hotel near Times Square, where I was scheduled to give a speech at a tax conference organized by Sid Kess, one of the nation's leading tax authorities. I assumed the conference had been cancelled. No, Mr. Kess told me. About half the 400 attendees were still there, and the show must go on.

I can't remember what I said, other than struggling to avoid tears.

\* \* \*

**Biggest embarrassment:** I wrote a column late in 2001 mentioning the IRS's toll-free phone number and mistyped one digit. The next morning, I stared at the paper, thought the number looked odd, called it -- and reached a "psychic hotline" service. Senior IRS officials thought it was funny. My editor did not.

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WSJ.com

APRIL 9, 2009

## More States Look to Raise Taxes

By LESLIE EATON

A free fall in tax revenue is driving more state lawmakers to turn to broad-based tax increases in a bid to close widening budget gaps.

At least 10 states are considering some kind of major increase in sales or income taxes: Arizona, Connecticut, Delaware, Illinois, Massachusetts, Minnesota, New Jersey, Oregon, Washington and Wisconsin. California and New York lawmakers already have agreed on multibillion-dollar tax increases that went into effect earlier this year.

Fiscal experts say more states are likely to try to raise tax revenue in coming months, especially once they tally the latest shortfalls from April 15 income-tax filings, often the biggest single source of funds for the 43 states that levy them.

The squeeze is especially severe in states hit hardest by the recession, such as Arizona, where sales-tax revenue has fallen by 10.5%, income-tax collections are down 15.7% this fiscal year, and the government faces a \$3.4 billion budget gap next year. But such shortfalls are likely to be widespread; federal income-tax receipts from individuals have dropped more than 15% in the past six months, according to Congressional Budget Office estimates.

While most states so far have managed to cope with dwindling cash by cutting spending and raising fees on things such as fishing licenses and car registrations, that is unlikely to be enough in the new fiscal years that generally begin July 1, many analysts said.

"Income taxes and sales taxes are the go-to taxes when you really need to raise a lot of money," said Donald J. Boyd, who monitors states' fiscal health for the Rockefeller Institute of Government in Albany, N.Y.

Sales-tax revenue has fallen more sharply than at any time in the past 50 years, Mr. Boyd said, and he expects income-tax collections to drop below levels state officials projected -- though the extent of the damage probably won't become clear until May.

Raising taxes is a perilous proposition for lawmakers, who must balance their states' budgets every year. Not only do they face political heat for increasing financial burdens during the recession, but added taxes risk worsening their states' economic problems by, for example, further hobbling consumer spending.

Some lawmakers say they have little choice. "With the size of our budget gap, we are looking at a situation of closing down our courts, releasing prisoners and cutting the school year by as much as a month," said Rep. Peter Buckley, co-chairman of Oregon's joint Ways and Means Committee.

His committee is considering an income-tax increase on high-earners, along with major budget cuts, to help close a projected \$4.4 billion budget gap over the next two fiscal years. And things could get worse after a revenue forecast due out May 15, he said, because Oregon's unemployment rate has climbed to 10.8% and the state relies on income-tax revenue.

Oregon Gov. Ted Kulongoski is likely to support the surcharge, said a spokeswoman, because the state is faced with losing as much as a third of its tax revenue.

Legislators know the increases will be unpopular with residents. "There will be blame, we accept that," Sen. Eileen M. Daily of Connecticut said earlier this month when she and fellow Democrats announced a budget that raises income-tax rates and expands the sales tax to raise more than \$3 billion over the next two years. Connecticut Gov. Jodi Rell, a Republican, has said she would veto the plan.

But some governors are proposing tax increases. Delaware Gov. Jack Markell wants to raise the marginal income-tax rate by one percentage point, to 6.95%, on those earning more than \$60,000 a year, effective in 2010. His budget plan also includes increases in corporate taxes as well as spending cuts to close a projected \$750 million shortfall in a \$3 billion budget, said spokesman Joe Rogalsky.

Many states remain determined to balance their budgets by relying solely on spending cuts. That is the case in Indiana, where raising revenue "is really not on the table," said Pat Bauer, the speaker of the state House.

Instead, he hopes to tap the state's rainy-day fund and to produce a budget that covers only one year, rather than the usual two, because plunging revenue makes it impossible to forecast that far in advance.

Tax collections have dropped drastically the past four months, according to Christopher A. Ruhl, director of the Indiana Budget Agency. Income-tax collections, which reflect withholding and estimated tax payments, fell 21% in March compared with last year and are down 7% for the fiscal year.

States have lowered revenue forecasts repeatedly in recent months, yet the estimates still seem to exceed the grim reality. Last week, Pennsylvania officials said total March tax collections were \$334.6 million, or 7.9%, short of expectations, due to sharp drops in income and sales taxes and a steep decline in corporate income taxes. For the fiscal year that began July 1, 2008, collections to date are running \$1.6 billion less than forecast.

This has led some experts, such as Nicholas Johnson of the left-leaning Center on Budget and Policy Priorities, to predict more legislatures will take up broad-based tax increases as early as May or June. "The problem," he said, "is that they are filling a hole that has gotten a little deeper."

**Write to** Leslie Eaton at [leslie.eaton@wsj.com](mailto:leslie.eaton@wsj.com)

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# Deseret News

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## 5% flat tax affects more Utahns than expected

By Bob Bernick Jr.

Deseret News

*Published: Tuesday, March 31, 2009 1:21 a.m. MDT*

Most Utahns are paying less state personal income tax on their 2008 earnings, a review by the Deseret News shows.

But because of several miscalculations, many are not easily seeing those tax cuts. Worse, it appears that more Utahns than were originally believed are actually paying more tax following the 5 percent flat-rate income tax reform that fully kicked in last year.

And that is leading to increased grumbling by a number of Utahns as the April 15 income tax filing deadline looms.

Because the State Tax Commission instituted less-than-accurate withholding tables in January 2008, not enough money was withheld from paychecks. Thus, the impact of the new 5 percent flat-rate tax is different than originally believed, with many Utahns seeing a smaller tax refund or even taxes due as they prepare their 2008 income taxes.

And there are groups of Utahns, some higher-middle income or wealthy, that appear to be actually paying more. Many retired people are also seeing higher taxes, several tax preparers told the newspaper, due to the switch from a retired deduction to a retired tax credit under the new system.

Taken all together, even those who seek a citizen initiative to change the new flat-rate system to a traditional, progressive-bracket income tax plan, say those making less than \$50,000 a year are seeing state income tax cuts. And some of those are seeing reductions of 10 percent or more.

"But there are those, like around 18 percent of all taxpayers, who are seeing tax increases, some significant, like more than 10 percent," said Doug Macdonald, a former Utah Tax Commission economist who says the new flat-rate system still needs some tweaking.

"We were told that only a few people would pay more. It was like selling a used car — those pushing the change (to a flat-rate tax) only talked about the good parts of the car, not the bad parts.

"Our examination shows that between 150,000 to 360,000 people (out of 1.2 million taxpayers) will actually pay more under the new system," said Macdonald.

Tax Commission spokesman Charlie Roberts said sometime this summer the commission should have hard data on those who saw tax cuts and tax increases in 2008, the first year of the new system.

Local tax expert and certified public account Keith Prescott, who was an early supporter of the flat-rate income tax, says his clientele this year are not displeased with the new system.

Prescott, head of the state's Tax Review Commission, was a close adviser to Gov. Jon Huntsman Jr. during the governor's drive to make Utah's personal income tax system more fair, broader-based and easier to understand and prepare.

"It was (an) easier (tax system) before we gave it to the Legislature" to draft into law, and politics got involved, said Prescott on Monday.



He said it is important to remember two things: First, don't make the mistake of using the 2007 hybrid flat-rate state tax system in 2008. And second, make sure you compare the actual tax you owe from 2006, 2007 and 2008 — not what you actually got back in a refund or had to pay.

"The withholding tables were wrong," said Prescott. And while many Utahns actually owe less state income tax in 2008 than 2007, because not enough was withheld, residents see less of a refund or actually have to pay.

Utah's flat-rate income tax was controversial from the start, and like any tax overhaul, there are winners and losers. To see the whole picture would take a full year, however, tax experts warned.

Teri Mueller, premium director for a local H&R Block tax preparer, said: "Most people are paying lower (state income) taxes than last year. But because of the withholding problem, their refund is between \$50 and \$100 less. And a few are actually having to pay tax this year when they didn't before."

She said, unfortunately, her office is also seeing a number of retired couples whose income is in the medium range paying "between \$150 and \$200" more because of the change in how retiree's tax is figured.

The flat-rate tax was always sold as a tax cut in general. In other words, overall it was a tax cut to Utah wage-earners.

But because of the economic recession in 2008, the withholding problems, and the new tax system, it is difficult to tell how each new ingredient is impacting the revenue losses.

The latest Tax Commission revenue collection report shows that personal income taxes are down \$150 million for the first eight months of fiscal 2008-2009, which started July 1, from the previous year.

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